

REMARKS

In the Office Action mailed November 18, 2009, as entered in the above-captioned matter, Claims 1-7 and 9-12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nakamura et al. (U.S. Patent Publication No. 2003/0167466) (“Nakamura”) in view of Ohkura et al. (U.S. Patent No. 6,005,601) (“Ohkura”). Claims 8 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nakamura in view of Ohkura and further in view of Sai et al. (U.S. Patent No. 6,822,661)(“Sai”). The Applicants respectfully traverse these rejections and requests reconsideration.

Statement of the Interview

Applicants wish to thank the Examiner for the courtesies extended during the interview conducted on March 17, 2010. The undersigned attorney along with Applicants’ attorney, Steven G. Parmelee, participated in the interview on Applicants’ behalf.

To begin the interview, the undersigned attorney remarked generally about the rejections made in the Office Action. The undersigned attorney and Mr. Parmelee then discussed what Applicants understand to be distinctions between the cited references, particularly Nakamura and Ohkura, and the claims of the application. The Examiner provided responses to the attorneys’ statements.

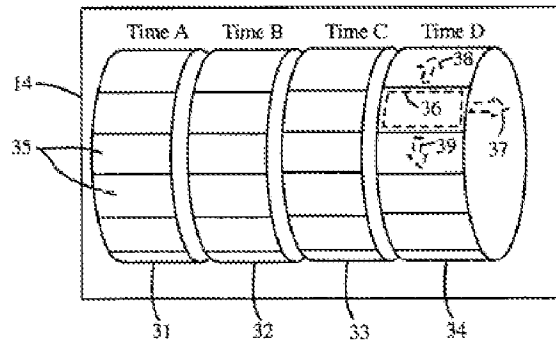
No agreement was reached as to the allowability of the claims, but Applicants kindly thank the Examiner for his input, guidance and time.

Rejections under 35 U.S.C. §103(a)

Claims 1-7 and 9-12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Nakamura in view of Ohkura.

The Applicants’ claims specify providing a program guide with a browsing and selection interface depicted as a plurality of three dimensional objects, each of which corresponds to a different time and each of which displays a plurality of characterizing descriptors (for example, program descriptions) corresponding to that time. Each of the three dimensional objects may be

scrolled independently of the other objects. An embodiment of Applicants' program guide is shown in Applicants' FIG. 3 (reproduced below) in which the Applicants provide for a plurality of three dimensional cylinders (31-34) where the horizontal axis corresponds to the temporal domain and where each of the cylinders corresponds to a different time (Times A-D). The user may browse and select among the characterizing descriptors by scrolling



each of the three dimensional objects independently of the other three dimensional objects. For example, to cause object 34 to scroll, the user may move area of focus 36 upward or downward. This will cause object 34 to scroll independently of objects 31-33. Then, to cause another object to scroll, the user may move area of focus 36 from object 34 to another object, *e.g.*, object 33, and initiate scrolling of that object independently of the other objects. This provides the user with the flexibility to simultaneously view programming options for different channels at different times. For example, the user may view programming options for one channel for Time A, and at the same time view programming options for a different channel for Time B.

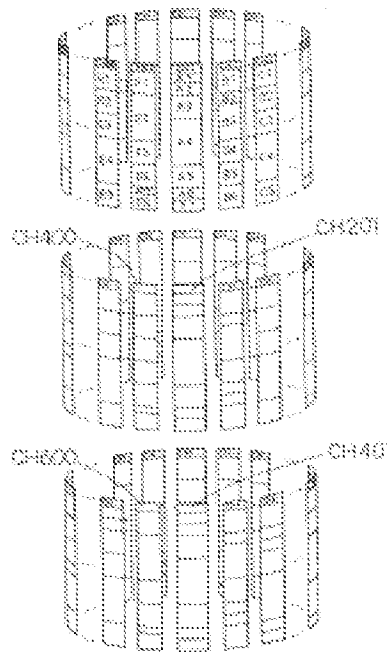
Applicants assert that Nakamura, in combination with Ohkura, fails to disclose displaying characterizing descriptors on a plurality of three dimensional objects, where each object corresponds to a different time, and where each three dimensional object may be scrolled independently of the other three dimensional objects.

In support of the rejection, the Examiner suggests modifications to Nakamura, which, with all due respect, are extreme and hardly obvious. Moreover, Ohkura, which the Examiner states discloses independent scrolling, fails to disclose independent scrolling and actually motivates one away from displaying a program guide as a plurality of three dimensional objects, each representing a different time and each independently scrollable. No fair combination of Nakamura and Ohkura that does not rely upon the hindsight application of Applicants' own teachings and that does not require extreme modifications that are above and beyond mere design

choice will yield the recitations of Applicants' claims. These points are discussed in more detail below.

Claims 1 and 9

In making this rejection, the Examiner relies upon Nakamura's presentation of a three dimensional cylindrical display and more particularly upon Nakamura disclosing "multiple three dimensional cylindrical displays displaying program guide information, wherein the axis of the cylinders are vertical."¹ While Nakamura does disclose (in his FIG. 15, shown at the right) a multiple-cylinder embodiment, it is noted that each cylinder presents, for each of a plurality of channels, programming content information for a plurality of different times.



As acknowledged by the Examiner, this is different from the Applicants' claimed approach. For example, Applicants' claims 1 and 9 specify that each three dimensional object "corresponds to a different time."

Nakamura, on the other hand, teaches that each cylinder presents programming for a plurality of times. Applicants' claims 1 and 9 also specify that "each of the plurality of three dimensional objects may be scrolled independently of the characterizing descriptors displayed on the other three dimensional objects."² Nakamura, however, does not disclose that the cylinders in FIG. 15 or in any embodiment for matter, are independently scrollable.

To meet these deficiencies in Nakamura, the Examiner then relies upon Ohkura. Referring specifically to Ohkura's FIGS. 3-13 and 18 and col. 5, ln. 26 – col. 6, ln. 28, the Examiner notes that Ohkura "suggests an electronic program guide can be composed of several

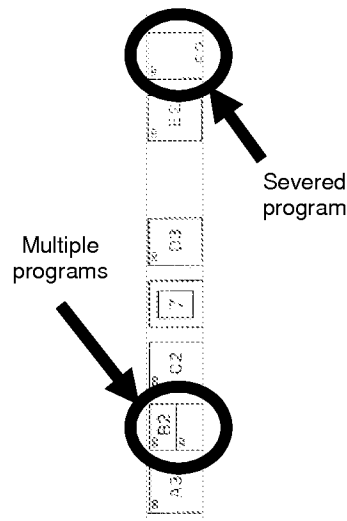
¹ Office Communication of November 18, 2009 at page 3, lines 7-8.

² Id. at page 3, lines 8-15.

cylinders with horizontal axes, wherein each one of the cylinders can be rotated independently of the other cylinders.”³

The Examiner then suggests that it would be “obvious to modify the vertical cylinders of Nakamura by turning them on their sides so as to be displayed as horizontal cylinders. . . . From this point it would have been obvious . . . to modify Nakamura to allow for different time periods to be designated [on] a separate cylinder.”⁴

With all due respect, the Applicants observe and submit that making such extreme modifications of Nakamura, with or without the influence of Ohkura, is hardly obvious. As Applicants have explained in previous papers, one does not achieve a usable result by merely making the modifications noted by the Examiner. In the modified view of Nakamura’s FIG. 2 shown at the right to accord with such a change, one immediately discovers



corresponding resulting problems. For example, while some of the programs fit within the one time being displayed, a longer program at the top is severed and another channel hosts one complete program and the beginning of another program. There is nothing in either Nakamura or Ohkura regarding how one might handle such problems and their corresponding ambiguity. As a result, it is inappropriate to view such a significant alteration of Nakamura as being merely an obvious modification. This difficulty presents new challenges that would require be solved and hence disqualify this approach as being a “mere design choice.” In fact, we respectfully submit that such issues would tend to discourage a skilled person from pursuing this approach at all.

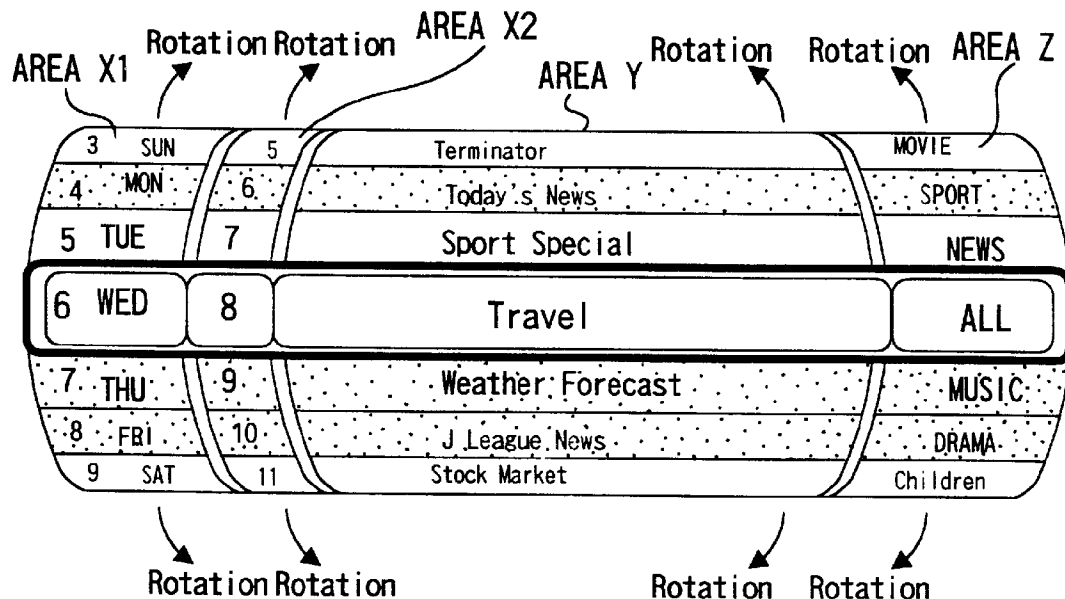
Applicants’ claims also provide for being able to independently scroll through the information on a single three dimensional object, hence leaving the other three dimensional objects as they were. The Examiner suggests that Ohkura can be used to supplant this claimed

³ Id. at page 4, lines 3-6.

⁴ Id. at page 4, lines 7-16.

recitation with particular reliance being based upon Ohkura's Figs. 3-13 and 18, and col. 5, ln. 26 – col. 6, ln. 28.

Ohkura's FIG. 18 is reproduced below for the convenience of the Examiner and



b

can be described as a program list that Ohkura refers to as a “cylinder EPG.” Ohkura's cylinder EPG is divided into areas X1, X2, Y and Z, corresponding to the date, time, program information, and genre, respectively. Ohkura teaches that a user can move a cursor to cause any one of these areas to scroll. However, Ohkura further teaches that as the selected area is scrolled, information in the other areas can change accordingly. Accordingly, by definition, Ohkura's scrollable areas are not independent of one another but rather are interdependent. FIGS 11A and 11B of Ohkura show this concept. For example, as the user moves the cursor in AREA Y from

“Today’s News” to “Thriller,” the time displayed in AREA X2 changes from “8” to “9” because Thriller is a program that begins at 9:00. Therefore, even if Ohkura is viewed as teaching separate three dimensional objects, the three dimensional objects are not independently scrollable because scrolling one object causes the information shown on the other object(s) to change.

FIG. 11A

AREA X1		AREA X2		AREA Y		AREA Z	
Day	Time	Program			Genre		
3 SUN	5	10P	Terminator	8:00 9:00	ALL		
4 MON	8	11CN	Today's News	8:00 9:00	MOVIE		
5 TUE	12	12STAR	Sport Special	8:00 9:30	SPORT		
6 WED	3	13WOW	Travel	8:05 11:00	NEWS		
7 THU	6	14	Weather Forecast	8:10 8:20	Book-mark		
8 FRI	9	17	J League News	8:30 9:00			
9 SAT	4	18ASAHI	Stock Market	8:30 9:00			
		21MNH	Thriller	9:00 10:00			

FIG. 11B

AREA X1		AREA X2		AREA Y		AREA Z	
Day	Time	Program		Genre			
3 SUN	5	10P	Terminator	8:00 9:00	ALL		
4 MON	6	11CN	Today's News	8:00 9:00	MOVIE		
5 TUE	9	12 STAR	Sport Special	8:00 9:30	SPORT		
6 WED	12	13WOW	Travel	8:05 11:00	NEWS		
7 THU	3	14	Weather Forecast	8:10 8:20	Book-mark		
8 FRI	6	17	J League News	8:30 9:00			
9 SAT	9	18ASAHI	Stock Market	8:30 9:00			
	4	21MNH	Thriller	9:00 10:00			

Applicants respectfully observe that Ohkura’s teachings would actually motivate a person skilled in the art away from *independently* scrollable three dimensional objects when displaying available programming results. Instead, Ohkura teaches interdependence between scrollable areas such that as the user modifies information in one area, the information in other areas is updated accordingly. One skilled in the art would not be motivated by the teachings of Ohkura to present information on three dimensional objects that may be scrolled independently, *i.e.*, the information shown on one object does not change as another object is scrolled.

Accordingly, and with all due respect, Applicants submit that no combination of Nakamura and Ohkura, and certainly no fair combination that does not rely upon the hindsight application of Applicants’ own teachings, will yield the recitations of independent claims 1 and 9. Accordingly, Applicants respectfully submit that claims 1 and 9 are allowable over the references of record.

Dependent claims 2-8 and 10-13

These remaining claims are ultimately dependent upon one of the independent claims shown above to be allowable. While the Applicants believe that other arguments are available to highlight the allowable subject matter presented in various ones of these dependent claims, the Applicants also believe that the comments set forth herein regarding allowability of the independent claims are sufficiently compelling to warrant present exclusion of such additional points for the sake of brevity and expedited consideration.

Conclusion

There being no other objections to or rejections of the claims, the Applicants respectfully submit that claims 1-13 may be passed to allowance. If the Examiner should have any other points of concern, the Examiner is expressly invited to contact the undersigned by telephone to discuss those concerns and to seek an amicable resolution.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

Date: March 18, 2010

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